

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.688 of 2007

Dated: 18.01.2007

Between:

V. Krishna Mohan and another.

..... PETITIONERS

AND

The Commissioner of Endowments, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.688 of 2007

ORDER:

The two petitioners seek a writ of Mandamus declaring the action of third respondent, namely, the Assistant Commissioner and Executive Officer, Sri Mallikarjuna Swamy Kamakshi Thayi Temple, Jonnawada, Buchireddypalem Mandal, Nellore District (hereafter called, subject temple) in trying to interfere with the petitioners' possession over an extent of Acs.15.00 in survey Nos.521, 523 and 527 situated at Penuballi Vilalge, Buchireddypalem Mandal, Nellore District, as illegal and arbitrary. It is the case of the petitioners that subject temple is a registered religious institution under the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (the Act, for brevity). The father of the petitioners, late V. Gangadhara Sarma, was enjoying hereditary archakatvam. After his death, his sons came to an understanding to enjoy archakatvam periodically. Second petitioner statedly has to be archaka for the months of January, April, July, August and October in a year. On representations made by the petitioners and other archakas of subject temple, first respondent issued proceedings on 06.10.2004 permitting them to work under rotation system and continue to enjoy the land among themselves. The petitioners now allege that third respondent is trying to interfere with their possession and enjoyment of the land over an extent of Acs.6.00. Aggrieved by the same, instant writ petition is filed.

After hearing the learned counsel for the petitioners and the learned Assistant Government Pleader for Endowments, this Court is of the considered opinion that the writ petition is filed on mere apprehension. The cause of action for filing the writ petition is narrated in para 7 of the affidavit accompanying the writ petition as hereunder.

I submit that the petitioners learn that the 3rd respondent herein is trying to interfere without peaceful possession and enjoyment of the land in an extent of Ac.6.00 cents, on the pretext of the Writ Petition by violating the instructions issued by the Commissioner, Endowments, A.P.Hyderabad, the 1st respondent herein and thereby causing wrongful loss to me.

The above paragraph would show that on a mere hearsay, the petitioners invoked the jurisdiction of this Court without there being any steps being initiated by third respondent. There cannot be any doubt that if the petitioners are to be evicted from the land belonging to subject temple, third respondent has to necessarily move an application before the Deputy Commissioner concerned under Section 83 of the Act. Even

before such action is contemplated, this writ petition is filed presumably to preempt third respondent from taking action under the statute.

The writ petition is, therefore, misconceived and the same is accordingly dismissed. No costs.

(V.V.S.RAO, J)

18th January, 2007
ghn